
HOUSE BILL No. 1467

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-19-9-10; IC 31-34-21-5.6; IC 35-42; IC 35-47-4-5.

Synopsis: Felony murder. Provides that a person at least 18 years of age who kills another person while committing battery on a child less than 14 years of age commits felony murder. Removes a provision making battery resulting in the death of a child less than 14 years of age by a person at least 18 years of age a Class A felony. Makes conforming amendments.

Effective: July 1, 2003.

Frizzell

January 15, 2003, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1467

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-19-9-10, AS AMENDED BY P.L.222-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 10. A court shall determine that consent to
4 adoption is not required from a parent if:

5 (1) the parent is convicted of and incarcerated at the time of the
6 filing of a petition for adoption for:

7 (A) murder (IC 35-42-1-1);

8 (B) causing suicide (IC 35-42-1-2);

9 (C) voluntary manslaughter (IC 35-42-1-3);

10 (D) rape (IC 35-42-4-1);

11 (E) criminal deviate conduct (IC 35-42-4-2);

12 (F) child molesting as a Class A or Class B felony
13 (IC 35-42-4-3);

14 (G) incest as a Class B felony (IC 35-46-1-3);

15 (H) neglect of a dependent as a Class B felony (IC 35-46-1-4);

16 (I) battery of a child as a Class C felony (IC 35-42-2-1(a)(3));

17 (J) battery as a ~~Class A felony (IC 35-42-2-1(a)(5))~~ or Class B



felony (IC 35-42-2-1(a)(4)); or

(K) an attempt under IC 35-41-5-1 to commit an offense described in clauses (A) through (J);

(2) the child or the child's sibling, half-blood sibling, or step-sibling of the parent's current marriage is the victim of the offense; and

(3) after notice to the parent and a hearing, the court determines that dispensing with the parent's consent to adoption is in the child's best interests.

SECTION 2. IC 31-34-21-5.6, AS AMENDED BY P.L.217-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

- (i) a child described in IC 31-35-3-4(2); or
- (ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

- (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
- (ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

- (i) aiding, inducing, or causing another person;
- (ii) attempting; or
- (iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

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~~(A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;~~
~~(B) (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;~~
~~(C) (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;~~
~~(D) (C) aggravated battery (IC 35-42-2-1.5);~~
~~(E) (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C felony;~~
~~(F) (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or~~
~~(G) (F) a comparable offense described in clauses (A) through (F) (G) in another state, territory, or country;~~
 against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
- (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
- (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

- (A) has appointed a guardian ad litem or court appointed special advocate for the child; and
- (B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

SECTION 3. IC 35-42-1-1, AS AMENDED BY P.L.17-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person who:

- (1) knowingly or intentionally kills another human being;
- (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, **battery by a person at least eighteen (18) years of age on a child less than fourteen (14) years of age**, consumer product tampering, criminal deviate conduct, kidnapping, rape, robbery, or carjacking;
- (3) kills another human being while committing or attempting to commit:
 - (A) dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1);
 - (B) dealing in a schedule I, II, or III controlled substance



1 (IC 35-48-4-2);
 2 (C) dealing in a schedule IV controlled substance
 3 (IC 35-48-4-3); or
 4 (D) dealing in a schedule V controlled substance; or
 5 (4) knowingly or intentionally kills a fetus that has attained
 6 viability (as defined in IC 16-18-2-365);
 7 commits murder, a felony.

8 SECTION 4. IC 35-42-2-1, AS AMENDED BY P.L.222-2001,
 9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2003]: Sec. 1. (a) A person who knowingly or intentionally
 11 touches another person in a rude, insolent, or angry manner commits
 12 battery, a Class B misdemeanor. However, the offense is:

13 (1) a Class A misdemeanor if:

14 (A) it results in bodily injury to any other person;

15 (B) it is committed against a law enforcement officer or
 16 against a person summoned and directed by the officer while
 17 the officer is engaged in the execution of his official duty;

18 (C) it is committed against an employee of a penal facility or
 19 a juvenile detention facility (as defined in IC 31-9-2-71) while
 20 the employee is engaged in the execution of the employee's
 21 official duty; or

22 (D) it is committed against a firefighter (as defined in
 23 IC 9-18-34-1) while the firefighter is engaged in the execution
 24 of the firefighter's official duty;

25 (2) a Class D felony if it results in bodily injury to:

26 (A) a law enforcement officer or a person summoned and
 27 directed by a law enforcement officer while the officer is
 28 engaged in the execution of his official duty;

29 (B) a person less than fourteen (14) years of age and is
 30 committed by a person at least eighteen (18) years of age;

31 (C) a person of any age who is mentally or physically disabled
 32 and is committed by a person having the care of the mentally
 33 or physically disabled person, whether the care is assumed
 34 voluntarily or because of a legal obligation;

35 (D) the other person and the person who commits the battery
 36 was previously convicted of a battery in which the victim was
 37 the other person;

38 (E) an endangered adult (as defined by IC 35-46-1-1);

39 (F) an employee of the department of correction while the
 40 employee is engaged in the execution of the employee's
 41 official duty;

42 (G) an employee of a school corporation while the employee

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is engaged in the execution of the employee's official duty;
 (H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
 (I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
 (J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; or
 (K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
and

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age. **and**

~~(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age.~~

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 5. IC 35-47-4-5, AS AMENDED BY P.L.222-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2;

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or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

- (1) murder (IC 35-42-1-1);
- (2) voluntary manslaughter (IC 35-42-1-3);
- (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
- (4) battery as a:
 - ~~(A) Class A felony (IC 35-42-2-1(a)(5));~~
 - ~~(B) (A) Class B felony (IC 35-42-2-1(a)(4));~~ or
 - ~~(C) (B) Class C felony (IC 35-42-2-1(a)(3));~~
- (5) aggravated battery (IC 35-42-2-1.5);
- (6) kidnapping (IC 35-42-3-2);
- (7) criminal confinement (IC 35-42-3-3);
- (8) rape (IC 35-42-4-1);
- (9) criminal deviate conduct (IC 35-42-4-2);
- (10) child molesting (IC 35-42-4-3);
- (11) sexual battery as a Class C felony (IC 35-42-4-8);
- (12) robbery (IC 35-42-5-1);
- (13) carjacking (IC 35-42-5-2);
- (14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
- (15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
- (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
- (17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);
- (18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
- (19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
- (20) criminal gang intimidation (IC 35-45-9-4);
- (21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
- (22) incest (IC 35-46-1-3);
- (23) dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1);
- (24) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (25) dealing in a schedule IV controlled substance (IC 35-48-4-3);

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1 or
2 (26) dealing in a schedule V controlled substance (IC 35-48-4-4).
3 (c) A serious violent felon who knowingly or intentionally possesses
4 a firearm commits unlawful possession of a firearm by a serious violent
5 felon, a Class B felony.
6 SECTION 6. [EFFECTIVE JULY 1, 2003] **IC 35-42-1-1, as**
7 **amended by this act, applies only to crimes committed after June**
8 **30, 2003.**

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